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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,882	12/16/2003	David L. Poole	87286D1	5731
24628 7.	590 12/16/2004		EXAM	INER
WELSH & KATZ, LTD 120 S RIVERSIDE PLAZA			NGUYEN, ANTHONY H	
22ND FLOOR CHICAGO, IL 60606			ART UNIT	PAPER NUMBER
			2854	

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)	
		10/736,882	10/736,882 POOLE, DAVID L.	
	Office Action Summary	Examiner	Art Unit	1
		Anthony H Nguyen	2854	J BW
Period fo	The MAILING DATE of this communication ap or Reply	pears on the cover sheet	with the correspondence ac	ddress
A SH THE - Exte after - If the - If NC - Faill Any	IORTENED STATUTORY PERIOD FOR REPI MAILING DATE OF THIS COMMUNICATION ensions of time may be available under the provisions of 37 CFR 1. SIX (6) MONTHS from the mailing date of this communication. e period for reply specified above is less than thirty (30) days, a re- posed priod for reply is specified above, the maximum statutory period ure to reply within the set or extended period for reply will, by statu- reply received by the Office later than three months after the maili- led patent term adjustment. See 37 CFR 1.704(b).	136(a). In no event, however, may ply within the statutory minimum of t d will apply and will expire SIX (6) M te, cause the application to become	a reply be timely filed hirty (30) days will be considered time ONTHS from the mailing date of this of ABANDONED (35 U.S.C. § 133).	ely. communication.
Status				
	Responsive to communication(s) filed on 16 for This action is FINAL. 2b) This Since this application is in condition for allowed closed in accordance with the practice under	is action is non-final. ance except for formal ma		e merits is
Disposit	ion of Claims			
5)□ 6)⊠ 7)□	Claim(s) 1-14,23-30,34,35 and 37 is/are pend 4a) Of the above claim(s) 5-7,12-14,31-33 and Claim(s) is/are allowed.  Claim(s) 1-4,8-11,23-30,34 and 35 is/are rejection(s) is/are objected to.  Claim(s) are subject to restriction and/	<u>d 37</u> is/are withdrawn fror	n consideration.	
Applicat	ion Papers			
10)⊠	The specification is objected to by the Examina The drawing(s) filed on <u>16 December 2003</u> is Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct The oath or declaration is objected to by the Examination	/are: a)⊠ accepted or b) e drawing(s) be held in abey ction is required if the drawi	rance. See 37 CFR 1.85(a). ng(s) is objected to. See 37 C	FR 1.121(d).
Priority (	under 35 U.S.C. § 119			
a)	Acknowledgment is made of a claim for foreig  All b) Some * c) None of:  1. Certified copies of the priority documer  2. Certified copies of the priority documer  3. Copies of the certified copies of the priority application from the International Burea  See the attached detailed Office action for a lis	nts have been received. nts have been received in ority documents have bee au (PCT Rule 17.2(a)).	Application No en received in this National	l Stage
Attachmen	it(e)			
1) Notice 2) Notice 3) Inform	ce of References Cited (PTO-892) ce of Draftsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO-1449 or PTO/SB/08 er No(s)/Mail Date 12/16/2003	Paper N	v Summary (PTO-413) o(s)/Mail Date f Informal Patent Application (PTo	O-152)

## **Double Patenting**

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer <u>cannot</u> overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-4, 8-11, 23-30, 34 and 35 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims of copending Application No. 10/141,322. This is a <u>provisional</u> double patenting rejection since the conflicting claims have not in fact been patented.

### Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 8, 11, 23-27, 34 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Hamisch et al. (US 5,772,341).

With respect to claims 1, 4, 8, 11, 23 Hamisch et al. teaches a ribbon cartridge 24 having a housing 25 (Hamisch et al., Figs. 2 and 3), a hollow core C1 for receiving a roll of donor ribbon (IR), a clutch 144 having a friction component 145 that engages with the inner surface 146 of the core C1, a resilient component located between the friction component and the one end of the clutch which is externally constrained by a surface 134 of a restraining structure 136,132. The restraining structure also supports the core as shown in Figs. 12 and 13 of Hamisch et al. With respect to claim 8, Hamisch et al. teaches the use of multi-diametral core as shown in Figs. 12 and 13 of Hamisch et al. Note that the shaft member 137 has many steps to accommodate the core C1.

With respect to claims 23-27 and 35, Hamisch et al. teaches the friction component 145 and the resilient component (between the surfaces 134 and 140) are parts of a common member 144 (Hamisch et al., Fig. 12, col.5 lines 64-66), the restraining structure 136 which constitutes a support independent of the core C1 and the clutch 144, the roll of ribbon which is supported on a shaft integrated by a shaft member 132 and a shaft 137 (Hamisch et al., Fig. 11, col.5 line 51) and the common member having a longitudinal opening 145' which receives the shaft.

#### Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) a patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2-3, 9, 10 and 28 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Hamisch et al. (US 5,772,341) in view of McTaggart (US 5,170,956).

Hamisch et al. teaches all that is claimed, except the common member which is made of elastomer material. McTaggart teaches the use of a rubber ball 44 which is made of elastomeric material which functions as a clutch that releases of energy stored in the elastomeric material. It would have been obvious to one of ordinary skill in the art to modify the ribbon cartridge of Hamisch et al. by substituting the elastomeric material as taught by McTaggart for maintaining of optimal friction between the clutch and the inner surface of the ribbon core in place of the clutch 144 of Hamisch et al. Also, note that the selection of a desired material such as a well-known elastomer would be obvious through routine experimentation in order to get best possible friction between the surfaces of the inner core of the ribbon and the surface of the clutch.

#### Conclusion

The patents to Danjo, Burnard, Kitsuki and Sampson are cited to show other structures having obvious similarities to the claimed structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Nguyen whose telephone number is (571) 272-2169. The examiner can normally be reached daily from 9 AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld, can be reached on (571) 272-2168. The fax phone number for this Group is (703) 872-9306.

Art Unit: 2854

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12/8/04

Patent Examiner

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